

Water Division

TRIBAL CONSULTATION AND COORDINATION

NPDES PERMITS

Status of New Mexico NPDES Permits

During the remainder of 2016, EPA Region 6 will or may be working on several NPDES permits in New Mexico located on or in proximity upstream to potentially affected Tribes: Roca Honda Resources Uranium Mine; Los Alamos National Laboratory-Stormwater; Los Alamos County - Bayo WWTP; Farmington WWTP; Resurrection Mining - Rio Puerco Mine, general permits for storm water associated with Construction Activities (CGP) (one for discharges on Indian Country and one for non-tribal lands); and a general permit for Municipal Separate Storm Sewer Systems (MS4) in New Mexico other than in the Albuquerque Urbanized Area-primarily for those in the Santa Fe, Las Cruces, El Paso, Los Lunas, and Farmington areas. Affected tribes will receive copies of the draft permits at the time of proposal for review during the public comment period or CWA Section 401 certification as appropriate. Tribal consultation will be available to the affected tribes. *Brent Larsen, 214-665-7523*

Los Alamos County Municipal Separate Storm Sewer (MS4) Designation Petition

EPA proposed to designate portions of Los Alamos County as a municipal separate storm sewer system (MS4), which establishes requirements to reduce pollution carried by storm water run-off and will help restore waters in the area that are too polluted. The proposed designation is in response to a petition filed by Amigos Bravos for a determination that storm water discharges in Los Alamos County are contributing to violations of water quality standards in certain impaired waters and therefore, require a discharge permit and designation as an MS4. After review of the petition, information provided by LANL and Los Alamos County, and the state's water quality assessment, EPA made a preliminary determination that stormwater discharges on Los Alamos National Lab (LANL) property and urban portions of Los Alamos County result in exceedances of state water quality standards. The proposal was published in the Federal Register on March 17, 2015. A final decision is expected summer 2016, and if decision is to designate, development of a permit(s) would follow. *Nasim Jahan 214-665-7522*

Los Alamos National Laboratory (LANL) NPDES Permit

EPA Region 6 proposed reissuance of the NPDES permit for stormwater discharges from Los Alamos National Laboratory in Los Alamos, New Mexico in March 2015 and the extended public comment period ended June 25, 2015. The individual storm water permit regulates storm water runoff from about 400 Solid Waste Management Units (SWMUs) and Areas of Concern. LANL has installed over 1000 BMPs to eliminate or mitigate runoff from those sites. The current permit has been administratively continued. EPA has been working with stakeholders including permittees, environmental/citizens groups and New Mexico Environment Department over the last year in the development of permit conditions. EPA held a public meeting prior on the proposal in Los Alamos on May 6, 2015. Final action on the permit is expected summer 2016. *Isaac Chen 214-665-7364*

Surface Water Quality Monitoring and Assessment Workshop for Tribes

Region 6 staff will provide training to tribes interested in the basic principles of surface water quality monitoring and data assessment September 27-29, 2016 at the Pueblo of Sandia. There is no fee for this workshop but participants are responsible for their travel, lodging and per diem. The primary targets for this training are tribal personnel who collect samples and data, develop final reports, and submit data to STORET, with a focus on those with lesser to intermediate experience at performing these tasks (newer programs, new personnel, those with no formal training, etc.). For more information, or to sign up for this workshop, please contact **Mike Schaub**, EPA Region 6, at schaub.mike@epa.gov or 214-665-7314.

UNDERGROUND INJECTION CONTROL**Induced Seismicity**

Over the last several years, there have been abrupt increases in earthquakes in some oil and gas production areas. These areas include Arkansas, Kansas, Oklahoma, and Texas, as well as other oil and gas producing states. Of particular note is a dramatic increase in both the numbers of earthquakes in Oklahoma and Kansas, along with their magnitudes. EPA finalized the Underground Injection Control (UIC) National Technical Workgroup (NTW) report, *Minimizing and Managing Potential Impacts of Injection-Induced Seismicity from Class II Disposal Wells: Practical Approaches*. This report was developed cooperatively with state members of the workgroup to protect underground sources of drinking water and was released as final in February 2015. Since release of the report, EPA Region 6 has been providing focused technical support to the Oklahoma Corporation Commission (OCC) in its efforts to address potential induced seismicity. In an effort to stem the increasing earthquake trends, OCC has periodically increased its level of response, culminating in a broad injection volume restriction area for disposal wells after several damaging Magnitude 4 events early this year. The Region has repeatedly expressed concern over the upward trend in magnitudes and agrees that volume restrictions over a larger area have been needed. These broad restrictions and/or economic pressures related to oil prices appear to have significantly reduced the seismicity trends since January/February of 2016. **Philip Dellinger, 214-665-8324**

TRIBAL FUNDING**State Revolving Funds Tribal Set-Asides**

The Clean Water Indian Set Aside (CWISA) and the Drinking Water Tribal Set Aside (DWTSA) are in the early stages of the FY 2016 award process. The Region's 2016 CWISA program will award \$2,079,700. Two projects are selected for Oklahoma's IHS office; Muscogee (Creek) Nation (\$494,200) and the Apache Tribes (\$36,500). Five projects are selected for Albuquerque's IHS office; Pueblo of Santa Clara (\$720,000), Pueblo of Isleta (\$400,000), Pueblo de Cochiti (\$239,000), Pueblo of Laguna (\$144,000), and Jicarilla Apache Nation (\$46,000).

The Region's 2016 DWTSA program will award \$1,777,000. Two projects are selected for Oklahoma's IHS office and the Cherokee Nation (Kenwood) (\$202,000 and \$324,000). Ten projects are selected for Albuquerque's IHS office; Pueblo of Zia (\$523,000), Pueblo of Isleta (\$300,000), Pueblo of Santa Ana (\$108,000), Pueblo of Taos (\$15,000), Pueblo of Pojoaque

(\$81,000), Pueblo of Santa Clara (\$33,000), Pueblo of Nambe (\$107,000), Pueblo of Picuris (\$29,000 and \$26,000) and Pueblo of Jicarilla Apache Nation (\$29,000). EPA R6 is working with two Indian Health Service offices; Albuquerque and Oklahoma City. We anticipate final awards the successful Tribal recipients of the projects selected and the associated CWISA and/or DWTSA funding by late August 2016.

Maurice Rawls, 214-665-8049, Dena Hurst, 214-665-7283, Sal Gandara, 214-665-3194, Anisa Pjetrovic, 214-665-6446

Tribal Multi-purpose Grants for Tribes with Treatment as a State for Water Quality Standards

EPA will be awarding a total of \$236,000 in Fiscal Year (FY) 2016 in multi-purpose funding to eligible tribes with approval treatment as a state for water quality standards. Projects will be managed by the Assistance Programs Branch of the Water Division.

Curry Jones, 214-665-6793

Clean Water Act (CWA) Section 319 Funding

Quapaw Tribe of Oklahoma was selected for the National CWA Section 319 Competitive Funding and was awarded \$100,000 in federal funds. Projects are managed by the Assistance Programs Branch of the Water Division.

Curry Jones, 214-665-6793

Wetland Program Development Grants

The 104(b)(3) Wetland Program Development Grants are competitive grants that are part of the EPA Enhancing State and Tribal Programs effort. Funds from these grants can be used to develop and implement a Wetlands Program Plan (WPP). The Core Elements Framework (CEF) outlines the 4 core elements a WPP may include, which are: Monitoring and Assessment, Regulatory Activities including 401 Certification, Voluntary Restoration and Protection, and Water Quality Standards for Wetlands. However, the development of a WPP allows tribes to implement the CEF based on their individual program goals and available resources. The Region 6 Wetlands Program will be soliciting new grant proposals in FY2017. Our grants are solicited on a two year cycle. For more information, please see

<https://www.epa.gov/wetlands/wetland-program-development-grants> and <https://www.epa.gov/wetlands/what-enhancing-state-and-tribal-programs-effort>

Alison Fontenot, 214-665-7482; Wanda Boyd, 214-665-6696

TREATMENT-IN-THE-SAME-MANNER-AS-A-STATE FOR GRANT PROGRAMS

TAS Deadline for Clean Water Act Section 319(h) and 106

The EPA Region 6 deadline date for submitting applications for TAS for FY 2017 CWA Section 319(h) funding was April 30, 2016. **Samuel Reynolds, 214-665-6682**

Citizen Potawatomi Nation TAS for Clean Water Act Section 319(h)

The Citizen Potawatomi Nation submitted an application in September 2014 for treatment in the same manner as a state (TAS) for the CWA Section 319(h) nonpoint source program. The Tribe needs to make minor corrections in the land parcel part of the application. Then the Regional Council will finalize their review and Water will complete its capability review. The EPA water

quality team fully expects to approve Citizen Potawatomi Nation's CWA Section 319 TAS in time for FY 2017 funding. *Samuel Reynolds, 214-665-6682*

Caddo Nation TAS for Clean Water Act Section 106

Caddo Nation of Oklahoma submitted an application in January 2016 for treatment in the same manner as a state (TAS) for CWA Section 106. The review of the application is in the final stages of review and will be completed in time for FY 2017 funding. *Samuel Reynolds, 214-665-6682*

Absentee Shawnee TAS for Clean Water Act 319(h)

Absentee Shawnee Tribe submitted an application May 2016 for treatment in the same manner as a state (TAS) for the CWA Section 319(h) non-point source program. The reviewer found many errors on the management and assessment report. A list of needed corrections was sent to the Tribe and we are awaiting their corrected responses. The goal is to have the review approved in time for FY 2017 funding. *Samuel Reynolds, 214-665-6682*

Tonkawa Tribe TAS Clean Water Act Section 319(h)

Tonkawa Tribe submitted an application in June 2016 for treatment in the same manner as a state (TAS) for the CWA Section 319(h) nonpoint source program. This application was submitted very recently and is in the very early stage of the review process. The EPA will contact the Tribe after the review of the management plan and assessment report is completed. *Samuel Reynolds, 214-665-6682*

TREATMENT-IN-THE-SAME-MANNER-AS-A-STATE FOR REGULATORY PROGRAMS

Treatment in the Same Manner as a State (TAS) Determinations for Clean Water Act §303(c) and §401

Region 6 is reviewing two applications for treatment in the same manner as a state (TAS) for the Clean Water Act (CWA) water quality standards (§303(c)) and water quality certification (§401) programs. The Citizen Potawatomi Nation and the Pueblo of Laguna each submitted TAS applications in fall 2014. Approval of a TAS application means that the Indian tribe is eligible to administer the water quality standards program under CWA §303(c), and is likewise eligible for purposes of certification under CWA §401. For both applications, EPA is preparing for the next step in the TAS review process which includes notification to appropriate governmental entities and seeking comments on each Tribe's assertion of authority to regulate the quality of tribal waters identified in the application. Region 6 is following the review process outlined in Attachment A of EPA's 2008 "TAS Strategy" to evaluate both TAS applications for the regulatory requirements in 40 CFR §131.8 (federal recognition, capability to manage federal programs, demonstration of substantial government duties, legal authority and jurisdiction over water resources). *Diane Evans, 214-665-6677; Tina Alvarado, 214-665-2709; Jay Przyborski, 214-665-6605*

Reinterpretation of a Clean Water Act Provision Regarding Tribal Eligibility to Administer Regulatory Programs

In May 2016, EPA published a final interpretive rule regarding the Clean Water Act (CWA) tribal provision at §518, which authorizes EPA to treat eligible Indian tribes in a manner similar to states (TAS) for regulatory programs and receiving grants under several CWA authorities. EPA's revised interpretation of CWA §518 streamlines the process for tribes to apply for TAS for the water quality standards program and other CWA regulatory programs. The reinterpretation as a delegation by Congress of authority, replaces EPA's previous interpretation that applicant tribes needed to demonstrate their inherent regulatory authority. All other tribal eligibility requirements established in the CWA and EPA's regulations will remain in place. The CWA §106 and §319 programs are not affected by this reinterpretation, since a demonstration of regulatory jurisdiction is not required for these programs. EPA will hold webinars on July 14th and July 26th to discuss and answer questions about how the reinterpretation will simplify tribal TAS applications. EPA has also prepared a template TAS application which will also be discussed on the webinars. Additional information is available at <https://www.epa.gov/wqs-tech/revised-interpretation-clean-water-act-tribal-provision> and in the regulatory docket (<http://www.regulations.gov/#!docketDetail;D=EPA-HQ-OW-2014-0461>). *Diane Evans, 214-665-6677*

Rulemaking for the Treatment in a Similar Manner as a State for Clean Water Act

303(d) Listing and TMDL Programs – Under the authority of CWA Section 518(e), the EPA Office of Water (OW) has commenced a Tier 3 Rulemaking to promulgate a rule to establish a regulatory process for eligible tribes to obtain authority to identify impaired waters on their reservations and to establish TMDLs under the Clean Water Act, with a goal of improving water quality. EPA proposed the CWA 303(d) TAS Rule on January 19, 2016. See 81 FR 2791. The 60-day public comment period and the Tribal consultation and coordination process will end on March 21st. Upon review and analysis of comments received, EPA could publish a final rule in mid to late 2016. *Tina Arnold, ORC, 214-665-2709*

CWA REGULATIONS

Baseline Water Quality Standards

In August 2015, EPA initiated pre-rulemaking consultation and coordination with Indian tribes to explore an action that would establish federally-promulgated baseline water quality standards (WQS) for waters on Indian reservations and tribal trust lands that do not have EPA-approved WQS effective under the Clean Water Act. (Note: off-reservation allotment lands for individual members would not be covered, due to difficulties in identifying these parcels with certainty in the near term.) An EPA workgroup has reviewed input from the pre-rulemaking tribal consultation and coordination process, including ideas developed by National Tribal Water Council members, and will move forward with another round of Tribal Consultation and Coordination in March-May 2016. In this next round, the EPA workgroup has developed materials with more detailed information and welcomes tribal input on the baseline WQS rulemaking. At any time, a tribe and its representative(s) may request alternative consultation arrangements with EPA to discuss views or concerns. EPA anticipates publishing a proposal for public comment in late 2016. *Diane Evans, 214-665-6677; Tina Arnold, 214-665-2709*

CWA 404 Nationwide Permit reissue process:

The Corps of Engineers (COE) has issued a Federal Register Notice on their proposed issuance of 52 Nationwide Permits (NWP) which will become effective March 19, 2017. Nationwide permits are intended to facilitate permitting for categories of activities that are proposed to have minimal impacts to the aquatic environment from use of “fill” material in Waters of the U.S. NWP are issued every five years; the 2012 NWP are in effect at the present time. The FR notice was published June 1 with comments on them due August 1, 2016. The COE will consider comments and publish the new NWP in the FR. The public has the opportunity to submit comments on the reissued NWP.

The Army Corps Districts are requesting comments from each state for regional conditions. Each state has the opportunity to create regional conditions to protect their resources that will be added to the NWP. The states also can consider which NWP to issue the states Clean Water Act (CWA) 401 water quality certification for permitting. These comments are due July 21 or 22, 2016 depending on the District.

EPA is the agency required to address water quality certification for tribes that have not received treatment in the same manner as a state for the water quality standards and 401 certification program. In addition to EPA review of the content of the NWP's, we are about to begin the formal consultation process with the tribes to seek their input on how they would like us to address 401 certification of the NWP. The Albuquerque Corps of Engineers is presenting information to the tribes at the tribal caucus, which is occurring the day before EPA meeting at RTOC. The presentation will be the initiation of the process of 401 certification for tribes with water quality standards, who interact with the Corps, and for tribes without their own water quality standards, who will interact with EPA.

Thomas Nystrom, 214-665-8331

Corps of Engineers vs Hawkes Supreme Court Decision Regarding Wetlands Jurisdiction

Background: Respondents proposed to mine peat in wetlands on their property in Minnesota and sought a § 404 permit from the Corps to discharge material into those wetlands. The Corps issued an approved JD, determining that the wetlands on-site had a “significant nexus” to the Red River of the North, 120 miles away, and therefore contained “waters of the United States” under the CWA. Respondents challenged the approved JD to the Corps’ Mississippi Valley Division Commander, who remanded the JD for further fact-finding; the Corps District reaffirmed its initial determination that the property contained “waters of the United States.” Respondents challenged the approved JD in District Court under the American Procedures Act (APA). Federal District Court held that the JD was not a final agency action and dismissed for want of jurisdiction; the Eight Circuit reversed; the Supreme Court granted certiorari.

Supreme Court Holding: Under § 404 of the Clean Water Act (CWA) and its implementing regulations, a U.S. Army Corps of Engineers (Corps) approved jurisdictional determination (JD) of whether a property contains “waters of the United States” is a final agency action under § 704 of the APA, subject to immediate judicial review.

Implications for Enforcement: The holding in *Hawkes* will have no direct impact on current enforcement cases. However, the decision highlights the continued importance of having a strong administrative record prior to issuing an administrative order under the CWA, as well as strong

evidence to establish a prima facie case before filing an administrative complaint or referring a matter to the Department of Justice. In response to the *Hawkes* decision, on June 24, 2016, EPA and the Corps issued interim guidance finding it essential that the documentation and administrative record developed to support JDs be complete and thorough; the agencies are continuing to develop further guidance considering options for responding to the implications of the decision.

Thomas Nystrom, 214-665-8331

Waters of the United States

EPA Administrator Gina McCarthy and Assistant Secretary of the Army for Civil Works Jo-Ellen Darcy signed the Clean Water Rule, “Definition of Waters of the United States” on May 27, 2015, clarifying the types of waters that are jurisdictional under the Clean Water Act. The rule became effective on August 27, 2015, 60 days after its publication in the Federal Register on June 29, 2015. However, since the rule’s publication, numerous lawsuits have been filed challenging the regulation, and on October 9, 2015, the U.S. Court of Appeals for the Sixth Circuit stayed the Clean Water Rule nationwide, pending further action of the court. The 6th Circuit held oral arguments on December 8, 2015, and on February 22nd, 2016, the court held that the Courts of Appeal have exclusive jurisdiction to hear the facial challenges to the Clean Water Rule. The agencies anticipate that litigation on the Clean Water Rule will continue for some time. During the stay, the EPA and the Department of the Army have resumed use of the prior regulations defining “waters of the United States” and implementation of these regulations will remain unchanged until further action is taken by the Court. More information about the rule, including information about court rulings, can be found at www.epa.gov/cleanwaterrule.

Alison Fontenot, 214-665-7482

EPA National Lakes Assessment Survey

The EPA National Lakes Assessment (NLA) will take place late spring through the summer of 2017. The NLA is a statistical survey of the condition of the nation’s lakes, ponds and reservoirs. It is designed to provide information on the extent of lakes that support healthy biological condition and recreation, estimate how widespread major stressors are that impact lake quality, and provide insight into whether lakes nationwide are getting cleaner. Sampling sites will be chosen at random. As has been R6’s past practice, tribes will be notified if a sampling site on a tribal lake is selected. Notifications will include solicitations for permission to access the lake site as well as an invitation to participate in both the sampling event and training for the 2017 NLA. The training event will occur in the time period of late March-mid April, 2017, at a yet-to-be determined location. Please note that while there is no cost to attend the training, EPA does not cover lodging and per diem for the week-long event. For more information on all of EPA’s national aquatic resource surveys, including results of past surveys, please visit:

<https://www.epa.gov/national-aquatic-resource-surveys>. ***Robert Cook, 214-665-7141***

Multimedia Division

Air Programs Branch

TRIBAL CONSULTATION AND COORDINATION

Treatment as a State (TAS) for the Clean Air Act (CAA): On September 30, 2014, The Quapaw Tribe of Oklahoma (The Tribe) submitted an application for TAS for CAA authority under Section 105, Section 505(a)(2), and any additional provisions of the CAA for which no separate Tribal program is required. On February 19, 2015, The Quapaw Tribe amended their application requesting CAA authority under Section 105, Section 505(a)(2), Section 107(d)(3), and CAA §126(a). Region 6 is continuing discussions with the Tribe to ensure all of the appropriate documentation are included in the application package, per various aspects raised during the comprehensive review that was initiated to determine the Tribe's capacity and jurisdictional boundaries which are requirements for eligibility to administer the programs sought.

Currently, four Tribes in EPA Region 6 have approved TAS for CAA authorities: The Cherokee Nation, the Pueblo of Laguna, Kaw Nation, and The Peoria Tribe of Oklahoma. *Frances Verhalen, 214-665-2172.*

Four Corners Air Quality Oversight Group: The Four Corners Air Quality Oversight Group has begun planning for the Fall 2016 meeting, scheduled for late October or early November in New Mexico. NASA and NOAA have studied methane releases in the Four Corners Area. NASA/NOAA agreed to a discussion with Tribal leaders prior to release of the findings report, which they expect to release in late summer 2016. *Frances Verhalen, 214-665-2172.*

TRIBAL PERMITTING

New Source Review Regulatory Update

Oil and Gas FIP on Indian Country: On June 3, 2016, the U.S. Environmental Protection Agency (EPA) finalized the federal implementation plan (FIP) to the Federal Minor New Source Review Program in Indian Country for oil and natural gas production.

<https://www.gpo.gov/fdsys/pkg/FR-2016-06-03/pdf/2016-11969.pdf> The FIP rules will reduce air pollution that harms public health, and clarify permitting requirements to allow safe, responsible oil and natural gas development to continue. The FIP would be used instead of site-specific minor New Source Review (NSR) preconstruction permits in Indian country and would incorporate emissions limits and other requirements from eight New Source Performance Standards (NSPS) for the oil and natural gas industry. Specifically, the proposed FIP would apply to new true minor sources and minor modifications at existing true minor sources in the oil and natural gas sector throughout reservation areas in Indian country and any other areas of Indian country for which a Tribe or EPA has demonstrated that the Tribe has jurisdiction. This sector is defined in the rule for oil production that includes all operations from the well to the point of custody transfer to an oil transmission pipeline or other means of transportation to a

petroleum refinery. For the natural gas sector this includes all operations from the well to the final end user. The FIP is effective on and after October 3, 2016.

The FIP requires the owners/operators to fill in two registration forms one which must be filed with EPA 30 days prior to construction, and obtain EPA's approval for Section 106 (NHPA) and Section 7(a) (ESA) of the Act. The second form needs to be filed within 60 days of operation. These forms will be available on the EPA Region 6 website noted below.

In addition, new oil and gas production facilities with NAICS codes of 21xxxx must comply with eight federal rules which includes the finalized NSPS for new and modified Sources in the Oil and Natural Gas Sector (NSPS OOOOa).

Also in this federal action EPA clarified the meaning of "adjacent" for the oil and gas industrial sector that is used to determine the scope of a "stationary source", commonly known as aggregation of emission sources for defining major NSR or Title V sources, which is effective August 2, 2016. See FR 35623 at: <https://www.federalregister.gov/articles/2016/06/03/2016-11968/source-determination-for-certain-emission-units-in-the-oil-and-natural-gas-sector>

EPA's 2011 Tribal minor source rules in Indian country require registration of existing sources and preconstruction permits for certain smaller sources of air pollution that are new or modified after September 2, 2014, commonly found in Indian country. The rule covers new and modified "minor" sources of air pollution, and minor modifications to "major" sources. Minor sources are those that have the potential to emit a number of pollutants in amounts above the minor NSR thresholds established in the 2011 rule, but below major NSR thresholds. These thresholds vary by pollutant, and by whether the area where the source is located is designated as attainment or nonattainment for a National Ambient Air Quality Standard (NAAQS).

Together with existing rules for permitting major sources in areas of Indian country that currently meet clean air health standards (the Prevention of Significant Deterioration program), the 2011 Tribal NSR rule established the federal programs for issuing all pre-construction air permits in Indian country. These permit programs are similar to those being implemented by states.

As part of the NSR permit applications, an assessment of the impacts from the facility emissions to species or habitats protected by the Endangered Species Act (ESA) and which may affect National Historic Preservation Act (NHPA) areas of identified resources is required. We encourage any prospective permit applicant to contact EPA Region 6 Air Permits program in advance of submitting a permit application to discuss the ESA and NHPA requirements and type of information EPA needs to make its determinations under these acts. We historically have not proposed or issued final permits until these requirements can be satisfied and EPA can make its determination regarding the impact of the project.

Region 6 has posted the "fillable" forms for registration, minor NSR permit applications on the Region 6 website at: <http://www.epa.gov/caa-permitting/caa-permitting-epas-south-central-region>

EPA has finalized the first batch of general permits (GP) for use in Indian country for new or modified minor sources in two source categories: (1) hot mix asphalt plants and (2) stone quarrying, crushing, and screening facilities (<https://federalregister.gov/a/2015-09739>). EPA also finalized permits by rule (PBR) for use in Indian country for new or modified minor sources in three source categories: (1) auto body repair and miscellaneous surface coating operations; (2) gasoline dispensing facilities (GDFs), except for Indian country within the borders of California; and (3) petroleum dry cleaning facilities. This rule was effective on June 1, 2015.

EPA also proposed a second bundle of general permits for Concrete batch plants, Boilers, Stationary spark ignition engines, Stationary compression ignition engines, Graphic arts and printing operations and Sawmill facilities on July 11, 2014.

http://www3.epa.gov/air/tribal/pdfs/miscdocs2/proposed_rule_bundle_2.pdf

The second bundle of general permits have not been finalized yet. Please see:

<http://www3.epa.gov/air/tribal/tribalnsr.html> for rule updates.

Since the finalization of the GP and PBR, Region 6 has received some intermittent inquiries from sources regarding jurisdiction for permits and registrations under the NSR rule. Now that the GP and PBR are available, there may be an increase in the number of jurisdictional questions received. We expect to work closely with the Tribes, as needed to answer any questions and before any “final determinations” are made.

Tribes are encouraged to review training provided by the Institute for Tribal Environmental Professionals (ITEP) as well as the basic training information on the EPA website. Upon request, Region 6 can provide some assistance to Tribal permit applicants for the minor NSR permits.

Region 6 Tribal Permit Status:

Major Tribal Permits: To date, there are five existing Part 71 permits and one application for a Part 71 permit in New Mexico. There are currently two pending Part 71 permit renewals for compressor stations that was held until EPA finalized the source determination/aggregation rule. The status of these permits can be found at: <http://www.epa.gov/caa-permitting/part-71-operating-permits-tribal-lands-epas-south-central-region>

Synthetic Minor Permits: Region 6 currently has five synthetic permit applications (<http://www2.epa.gov/caa-permitting/tribal-nsr-permits-epas-south-central-region>). The Sandia Resort and Casino permit was issued on December 18, 2015. The NuStar Logistics LP located on Santo Domingo Pueblo is an asphalt and crude oil transportation terminal located on Santo Domingo Pueblo was issued on May 4, 2016. We are now actively working on the New Mexico Gas Company (NMGC) compression station on Laguna Pueblo that provides additional compression when needed for transporting natural gas to the end users on Tribal and State lands. EPA Region 6 will continue implementing e-notice of its proposed permit actions. We will also provide a separate letter about a public notice/comment period at the beginning of the comment period to the Tribal Nation where the facility is located and to any Tribal Nations determined to be adjacent to where the facility is located. Currently letters have been sent out regarding the NMGC facility to the three adjacent tribes (Pueblos of Acoma and Isleta and the Navajo Nation).

Minor New Source Review Sources Registration: To date, there have been approximately 146 registrations submitted, with many from oil and gas facilities. All existing non-oil and gas facilities are still encouraged to complete the registration forms that will assist the Region in determining an accurate count of minor sources. *It should be noted that any registered source that makes a change to their source which results in a change of their operation and/or emission changes needs to re-register their facilities with EPA in accordance with 49 CFR § 160(c).*

Please note that the use of Air Curtain Incinerators for the combustion of wood and brush material will require the filing of a registration form and may also require a federal permit.

Upon request, EPA Region 6 will assist Tribes in reviewing CAA permits as well as support those taking on the responsibility of permitting program phases. **Bonnie Braganza, 214-665-7340.**

TRIBAL FUNDING

FY2016 Tribal Air Funding: In FY2016, EPA Region 6 received approximately \$1,134,000 in federal funds to support assistance agreements under statutory provisions of the Clean Air Act Section 103 and Section 105. On December 11, 2015, the Office of Environmental Justice and Tribal Affairs (OEJTA) sent a collective email to Tribal Leaders, including a solicitation for proposals for air projects and program activities to be conducted in FY2017. As a result, in February 2016, the Region received a total of 16 proposals for \$1,860,964 in cumulative funding support.

A panel of technical and administrative Air Program staff completed a review of each proposal and recommendations for approval, partial approval, and non-approval of each proposal were finalized by management in April, 2016. All applicants were notified of their specific recommendation and the basis for that recommendation, via email, May 2, 2016. All awards will be finalized by September 30, 2016.

Note: The Tribal Air Guidance manual, Protecting Tribal Air Quality Options and Opportunities, is available to Region 6 Tribes as a tool to assist in project and grant proposal development for future Tribal Air funding opportunities. Due to changes with EPA's internet, the guidance document is not currently posted. However, an electronic copy of the document is shared with Region 6 tribes, annually, and may be requested throughout the year. **Aunjaneè Gautreaux, 214-665-7127.**

CURRENT AND UPCOMING REGULATIONS

Designations under the 2015 Ozone Standard: On October 1, 2015, the EPA strengthened the National Ambient Air Quality Standard (NAAQS) for ground-level ozone to 70 parts per billion (ppb), based on extensive scientific evidence about ozone's effects. On February 29, 2016, the EPA sent letters to the Tribes, inviting them to participate in the designations process and to offer consultation. As required by the Clean Air Act (CAA), the EPA anticipates making designations under the revised standards by October 1, 2017 and those designations likely will be

based on 2014-2016 air quality data. Tribes are invited to submit to EPA their recommendations for area designations within their jurisdictional boundaries. Based on preliminary ozone monitoring data for 2013 to 2015, none of the Tribal monitors within Region 6 are violating the new standard. The EPA has placed designations guidance and data, including the Ozone Designations Mapping Tool, on its website at <https://www.epa.gov/ozone-designations>. This mapping tool will assist air agencies in developing their area designation and nonattainment boundary recommendations and will provide the relevant data to facilitate the analyses. **Mary Stanton, 214-665-8377.**

Proposal to Retain the Lead Standard: On December 19, 2014, the EPA proposed to retain, without revision, the National Ambient Air Quality Standard (NAAQS) for lead. This proposal was published in the Federal Register on January 5, 2015, and the comment period ended April 6, 2015. The EPA received numerous comments on this proposal and anticipates the final rule will be completed this calendar year. To view the proposal and fact sheet, please visit www.epa.gov/airquality/lead/actions.html. **Guy Donaldson, 214-665-7242.**

Designations for Sulfur Dioxide: The EPA Region 6 is currently proceeding with designations for the 2010 sulfur dioxide (SO₂) National Ambient Air Quality Standard (NAAQS) in four phases: 1) Existing monitoring data; 2) Consent Decree (CD) listed sources; 3) Data Requirement's Rule (DRR) air modeling pathway; 4) and air monitoring pathway for all remaining sources. The EPA is now in phase two and under a CD to designate no later than July 2, 2016, areas with newly violating monitors and areas where 68 sources with the largest SO₂ emissions are located. Twenty of these CD sources are located in Region 6.

On February 16, 2015, the EPA sent out 120-day letters to States with corresponding technical support documents announcing the EPA's intended area designations for the CD sources. These areas include two power plants in Arkansas, three power plants in Louisiana, three power plants in Oklahoma, and twelve power plants in Texas. Under the CD, the EPA is required to designate areas that have monitored violations of the 2010 SO₂ standard based on 2013-2015 air quality data, and areas that contain any stationary source not announced for retirement that according to the EPA's Air Market Database emitted in 2012 either (a) more than 16,000 tons of SO₂ or (b) more than 2,600 tons of SO₂ and had an average emission rate of at least 0.45 lbs SO₂/mmBTU.

On August 21, 2015, the EPA published the Data Requirements Rule (DRR). For phase three, the DRR sets a process and timetable for air agencies to characterize ambient air quality by either establishing ambient monitoring sites, conducting air quality modeling, or alternatively establishing a federally enforceable emission limit requiring SO₂ emissions to be below the 2,000 tons per year threshold. Thirty-five DRR sources were identified in Region 6 to be designated in phase three by December 31, 2017, and all remaining areas will be designated by December 31, 2020. Tribes are welcome to contact Region 6 if they are interested in consultation or participating in further discussions with EPA about the designation process. **Technical Contacts: James E. Grady (214) 665-6745 and Dayana Medina (214) 665-7241; Legal Contact: Josh Olszewski (214) 665-2178.**

Designations and Implementation of the NAAQS for Particulate Matter (PM): On December 24, 2014, the EPA completed initial designations for the 2012 annual fine particle

standard (also known as PM_{2.5}) of 12.0 micrograms per cubic meter. All areas in Region 6 are designated as attainment/unclassifiable for this standard. On March 23, 2015, the EPA proposed requirements for implementing the NAAQS for PM_{2.5} in areas that are designated nonattainment for these standards. The comment period ended on May 29, 2015, and EPA will provide a “Response to Comments” document with the final implementation rule. See www.epa.gov/airquality/particlepollution/actions.html for more information. **Guy Donaldson, 214-665-7242.**

Particulate Matter (PM) Advance: On January 17, 2013, EPA launched its voluntary program to assist PM attainment areas, titled *PM Advance*. Similar to Ozone Advance, PM Advance is designed to help PM attainment areas take active steps to stay in attainment. Prompt or early actions to reduce PM precursors can (1) ensure continued health protection, (2) better position areas to remain in attainment, and (3) efficiently direct available resources toward actions to address PM problems quickly. To date, there are 17 state/local participants across the nation, including 4 areas in Louisiana and the Houston area but no Tribal participants. For additional information, please visit our new website: <https://www.epa.gov/advance>. **Randy Pitre, 214-665-7299.**

Ozone Advance: There are now 31 participants across the nation in the Ozone Advance program, including one Tribal participant - the Inter-Tribal Council of North Eastern Oklahoma, participating with a coalition that includes the City of Joplin (MO), the Four States Clean Air Alliance, the Joplin Area Transportation Study Organization, and the Board of Commissioners for Cherokee County, KS. Within the Region 6 area, there are 15 areas participating in the program in Louisiana, Oklahoma and Texas. Please visit our new website for updates on participant activities, program information and resources (funding opportunities, documents, webinars and more!): <https://www.epa.gov/advance>. **Ken Boyce, 214-665-7259.**

Oklahoma Regional Haze Federal Implementation Plan (FIP): On December 13, 2011, the EPA finalized a plan to control emissions from six coal fired power plants at three locations in Oklahoma under the Regional Haze Rule (RHR). The plants include the Oklahoma Gas and Electric (OG&E) Muskogee, OG&E Sooner, and the American Electric Power/Public Service Company of Oklahoma (AEP/PSO) Northeastern plants. This final action was published December 28, 2011, and will improve visibility at Class 1 areas in Oklahoma and Arkansas. This action will reduce sulfur dioxide (SO₂) emissions, which will also result in health benefits on Tribal lands in Oklahoma. In our December 13, 2011, final action, we did not act on whether Oklahoma satisfied the reasonable progress requirements found at section 51.308(d)(1). We stated in that action that we are not taking action on Oklahoma’s submitted reasonable progress goals because we must first evaluate and act upon the Regional Haze SIP revision submitted by the State of Texas. We proposed action on the Texas submittal on December 16, 2014. See the next item (Texas and Oklahoma Regional Haze FIP) for more details.

In 2012, petitions for judicial review of our Regional Haze FIP for Oklahoma were filed by the Oklahoma Attorney General, OG&E, and AEP/PSO. Last year, AEP/PSO entered into a settlement agreement with EPA, the State of Oklahoma and the Sierra Club, which will result in equivalent reductions in emissions with an alternate plan. Specifically, AEP/PSO would initially meet specified nitrogen oxide (NO_x) and SO₂ emission rates at both northeastern coal units, then

in 2016 retire one of the units and install additional emissions control equipment on the remaining unit, which will ultimately be retired in 2026. Pursuant to the settlement agreement, the State of Oklahoma in June 2013, submitted a revised Regional Haze State Implementation Plan (SIP) containing a new Best Available Retrofit Technology (BART) determination for AEP/PSO Northeastern Power Station, and EPA proposed to approve the SIP revision and amend the FIP in August 2013. In February 2014, EPA issued final approval of the SIP revision and amended the FIP to remove all references to the AEP/PSO Northeastern Power Station. No appeals to our final approval of Oklahoma's regional haze SIP revision were filed.

The Oklahoma Regional Haze FIP remains in place for the OG&E Muskogee and Sooner plants. On May 27, 2014, the U.S. Supreme Court announced that it will not hear an appeal of the Federal District Court decision upholding EPA's regional haze FIP for Oklahoma that was filed by the Oklahoma Attorney General and OG&E. OG&E is evaluating its options for complying with the requirements of our FIP at the Muskogee and Sooner facilities. *Joe Kordzi, 214-665-7186.*

Texas and Oklahoma Regional Haze FIP: On December 16, 2014, the EPA published a proposal to partially approve and partially disapprove a revision to the Texas State Implementation Plan (SIP) and to partially disapprove a revision to the Oklahoma SIP submitted in February 19, 2010, to address regional haze. This proposal also includes Federal Implementation Plans (FIPs) for Texas and Oklahoma to remedy these deficiencies. The proposed Texas FIP would implement SO₂ emission limits on 15 Texas coal fired power plant units, located at eight facilities in Texas, as part of a long-term strategy for making reasonable progress at three Class I areas in Texas and Oklahoma. It also sets new Reasonable Progress Goals (RPGs) for the Big Bend, the Guadalupe Mountains and substitutes Texas' reliance on the Clean Air Interstate Rule (CAIR) to satisfy BART requirements at its energy generating units (EGUs) with reliance on CAIR's successor, the Cross-State Air Pollution Rule (CSAPR). The Oklahoma FIP sets RPGs for the Wichita Mountains Class I areas. This action is a continuation of the December 13, 2011, Oklahoma FIP, in that it covers EPA's evaluation of Oklahoma's reasonable progress requirements EPA previously did not act upon. The comment period for this proposal ended April 20, 2015. EPA is under a consent decree to finalize its decision by December 9, 2015. *Joe Kordzi, 214-665-7186.*

New Mexico Regional Haze Federal Implementation Plan (FIP): On October 9, 2014, the EPA took final action approving a revised New Mexico Regional Haze State Implementation Plan (SIP) and withdrawing the FIP (79 FR 60985 and 79 FR 60978). The approved New Mexico Regional Haze SIP calls for the retirement of two units at the 1,800-MW coal-fired San Juan Generating Station (SJGS) by the end of 2017. The remaining two units have recently been retrofitted with selective noncatalytic reduction technology and performance testing is currently underway. In December 2015, the New Mexico Public Regulation Commission (PRC) approved Public Service Company of New Mexico's (PNM) plan for future operations, including retirement of two units at the SJGS, and plan for obtaining replacement power. *Michael Feldman, 214-665-9793.*

Oklahoma DC Circuit Decision on New Source Review (NSR) Rule - Implementation Plans in Non-Reservation Areas of Indian Country: On January 17, 2014, the D.C. Circuit issued a

decision vacating EPA's Clean Air Act (CAA) New Source Review (NSR) rule for non-reservation areas of Indian country (Oklahoma Dept. of Environmental Quality (DEQ) v. EPA, 740 F.3d 185 (D.C. Cir. 2014)). The court held that states, not Tribes or EPA, have initial primary regulatory jurisdiction over non-reservation areas of Indian country for purposes of implementation plans under CAA section 110, except where an Indian Tribe or EPA has demonstrated that a Tribe has jurisdiction over such an area. Non-reservation areas of Indian country consists of Indian allotments and dependent Indian communities; these lands are believed to exist in several states, however, in many cases their exact location may be uncertain.

EPA continues to evaluate the effect and implications of the court's decision and continues to actively reach out to Tribes and states for their input. At this point, the Office of Air Quality Planning and Standards (OAQPS) is seeking out information (through the Regional offices) about the location of non-reservation areas of Indian country. They are also interested in information about existing or prospective sources within non-reservation Indian country. Finally, for matters that will affect all regions, OAQPS is seeking feedback on an effective, timely approach for offering consultation to Tribes that may be affected by future state implementation plan (SIP) approvals. The Region will continue to reach out to Tribes on individual SIP actions through the RTOC calls and in some cases, through offers of formal consultation.

EPA recently learned that Oklahoma DEQ does not believe that the court's decision is limited to National Ambient Air Quality Standards (NAAQS) implementation under CAA section 110. In their view, the decision extends to all CAA programs in non-reservation areas of Indian country. Oklahoma DEQ raised this issue in comments on proposed revisions to an Oklahoma National Emission Standards for Hazardous Air Pollutants (NESHAPs) delegation. EPA is considering Oklahoma DEQ's comments and will respond in a final action in the future. *Mark Hansen, 214-665-7548 (Region 6) and Laura Bunte, 919-541-0889 (OAQPS).*

New Mexico Regional Haze Five-Year Progress Report State Implementation Plan: On March 14, 2014, the EPA received the five-year regional haze progress report SIP from New Mexico. The EPA proposed approval of the plan on October 23 2015. We are currently evaluating comments and expect to finalize action in May, 2016. *Guy Donaldson, 214-665-7242.*

AIR MONITORING

Technical Systems Audit: EPA conducted the technical system audit for the Delaware Nation in October 2015. The audit team interviewed technical staff and reviewed the operation and procedures for their air monitoring network. *Kara Allen, 214-665-7333.*

Oil & Gas Air Monitoring: The Alabama-Coushatta Tribe competed nationally for and were awarded an EPA Community Air Toxics monitoring project grant. The project is for real-time monitoring of hazardous air pollutants such as benzene, toluene, ethylbenzene, xylenes and aldehydes in the vicinity of oil and gas sites. The Tribe is working with the Houston Advanced Research Center to deploy the monitoring system once a week for three years. *Ruben Casso, 214-665-6763.*

CLIMATE CHANGE

Clean Power Plan (CPP) Final Rule Update: EPA announced the CPP Rule to cut carbon pollution from new and existing power plants on August 3, 2015, and published it (along with the proposed rule for the CPP Federal Plan/Model Rules and Trading Program for states) in the Federal Register on October 23, 2015. The 90 day comment period on proposed Federal Plan/Model Rule ended on January 21, 2016. EPA held CPP community workshops focused on Tribal communities in early December in Farmington, NM and Tuba City, AZ. Region 6 conducted a webinar for Tribes and community interest groups on December 11, 2015. EPA received nearly a million public comments by the end of the public comment period.

Three Tribes fall directly under CPP mandates: the Navajo Nation (Arizona and New Mexico), the Ute Tribe of the Uintah and Ouray (Utah), and the Fort Mojave Tribe (Nevada), which have one or more electric generating units (EGUs) on its lands. Rules for Tribes with existing EGUs were written separately into the CPP, though they reflect the overall goal of a 32% reduction in carbon output by 2030.

The CPP would also impact “non-EGU” Tribal communities throughout the U.S. for several reasons: carbon reduction promises to at least slow the progression of climate change, which hits Tribes particularly hard as it impacts their environments, health, and cultural and spiritual well-being. A significant reduction in carbon emissions from power plants nationwide would also reduce emissions of other dangerous pollutants, including mercury and sulfur dioxide. And incentives built into the CPP would enable Tribes that are planning to develop Renewable Energy (RE) or Energy Efficiency (EE) projects to participate in the trading provisions of the final rule, thereby providing potential emission rate credits (ERCs) to states to help them meet their goals (as long as they are connected to the continental U.S. grid and meet other requirements for eligibility). This effort would benefit Tribes both environmentally and economically—and potentially aid in their energy-sovereignty efforts—as they move toward lower-impact power generation and increase energy efficiency within their communities.

A coalition of 26 states and a coal mining company filed lawsuits opposing/challenging the CPP in October/November 2015. Those lawsuits are progressing through the U.S. Court of Appeals in Washington, DC.

On February 9, 2016, the Supreme Court *stayed* implementation and enforcement of the CPP pending judicial review. The Supreme Court’s decision was not on the merits of the rule. EPA firmly believes the CPP will be upheld when the merits are considered because the rule rests on strong scientific and legal foundations. For the states (and Tribes) that choose to continue to work to cut carbon pollution from power plants and seek the agency’s guidance and assistance, EPA will continue to provide tools and support.

EPA will make additional information available as necessary.

Key Points

- Implementation and enforcement are on hold.

- Initial submittals (by states **and Tribes**) not required on September 6, 2016.
- EPA will continue to work with states (**and Tribes**) that want to work with us on a voluntary basis.
- For more information, please visit: www.epa.gov/cleanpowerplan

Mark Hansen, 214-665-7548.

2016 Diesel Emissions Reduction Act (DERA) Tribal Funding: For the third year in a row, EPA is offering a stand-alone Tribal Request for Proposals (RFP) for National Clean Diesel Campaign (NCDC) grants for projects that reduced emissions from older diesel engines. Last year a Region 6 Tribe, the Pueblo of Acoma, was awarded \$82,000 for a Regional Truck Stop Electrification (TSE) Project to equip the Sky City Travel Center with 30 HVAC-equipped electrified TSE spaces. It is estimated that the project will save 76,650 gallons of diesel/year while removing over 693 tons of nitrogen oxides (NOx), fine particulate matter (PM2.5) and hydrocarbons (HC). It is anticipated that the RFP will be released in mid to late June 2016. Two informational webinars are being planned to accompany the RFP. *Gloria Vaughn, 214-665-7535.*

Hazardous Waste Branch

TRIBAL CONSULTATION AND COORDINATION

Fort Wingate Depot Activity, New Mexico: Fort Wingate Depot Activity (FWDA) closed under Base Realignment and Closure (BRAC) in 1993. Closure and post-closure is managed under a state Resource Conservation and Recovery Act (RCRA) permit for closure and post-closure, effective December 31, 2005. Investigation and remediation work continues very actively. Base size at closing was 21,131 acres. The facility is scheduled to be returned to two Tribes, the Navajo Nation and the Pueblo of Zuni. Navajo lands and communities are adjacent to the facility, and both Tribes have had historic presence there. Very early in the base closure process the two Tribes were invited to be active participants in the process, attending the Base Closure Team (BCT) meetings and giving input; this participation continues to this day, with nine representatives of the Tribes at the latest BCT meeting.

The 2005 RCRA closure/post-closure permit issued by NMED included specific requirements for consultation with the Tribes in development of the Community Relations Plan, and prior consultation with the Tribes on work plans and reports. Posted warning signs are in English, Spanish, Zuni, and Navajo languages. Intrusive work is done in consultation with the Tribes' experts in order to preserve archeological sites, historic sites, and cultural resources.

The Army notified the stakeholders at the November 2014 BCT meeting that the FWDA project has been put on a funded, accelerated cleanup schedule, with the goal of having all major cleanup completed in 2020. This acceleration may allow transfer of the facility to the Tribes up to 10 years earlier than previously expected. Acceleration of the schedule has shortened Tribal document review times, but the Tribes have not objected to the change. *Laurie King, 214-665-6771.*

FACILITY SPECIFIC INFORMATION

Los Alamos National Laboratory Hexavalent Chromium Groundwater Plume, New Mexico: Potassium dichromate was used in the cooling towers at some of the Los Alamos National Laboratory (LANL) power plants. The cooling water was periodically discharged to adjacent canyons. It is estimated that up to 72,000 kg of hexavalent chromium cooling water was discharged into Sandia Canyon from 1956-1972. The discharged water traveled downstream approximately 2 miles to an infiltration point in Sandia Canyon, where hexavalent chromium has contaminated the regional aquifer, which is approximately 1,000 feet below ground. LANL first discovered the groundwater plume in late 2005. In August 2015, LANL installed a groundwater monitoring well on San Ildefonso property to determine if the hexavalent chromium groundwater plume had migrated onto Pueblo property. Samples taken in September and October of 2015 from this monitoring well (SIMR-2) detected hexavalent chromium at 4 and 5 ppb (New Mexico Environment Department (NMED) standard is 50 ppb). It should be noted that the new monitoring well is actually located side gradient to the plume (the true down gradient location is on San Ildefonso sacred grounds). In May 2015, LANL submitted an Interim Measures (IM) Work Plan to NMED to address the chromium plume, which includes the extraction and treatment of the chromium contaminated groundwater. In February 2016, EPA Robert S. Kerr Laboratory (located in Ada, OK) reviewed and provided comments on the IM work plan per NMED's request. The chromium plume control IM Work Plan was approved and six new monitoring wells/piezometers were installed within and near the Cr plume. Data from these new monitoring points indicate that the 50-ppb plume boundary is more extensive than previously thought which may alter the scope of the IM in terms of plume control.

Laurie King, 214-665-6771.

Sandia National Laboratories (SNL) Mixed Waste Landfill (MWL), New Mexico: In November 2015, the Pueblo Isleta contacted EPA Region 6 regarding the safety and status of the MWL. EPA Region 6 held a conference call with Isleta in December 2015, to discuss their concerns. The New Mexico Environment Department (NMED) agreed to hold a briefing with Isleta to provide the regulatory history and current status of the site. A mutually agreed briefing date has not yet been determined. EPA expects to have another call with Isleta after they meet with NMED.

The MWL is located on Kirtland Air Force Base, five miles southeast of the Albuquerque airport. It is a 2.6-acre site which operated from 1959 to 1988 as a disposal area for low-level radioactive waste and minor amounts of mixed waste generated by SNL research facilities.

The MWL has been extensively studied and discussed. Twenty-five years of monitoring and site characterization show no evidence of groundwater contamination. Groundwater, soil, and air data shows concentrations of potential contaminants do not pose a risk to human health or the environment for current and projected future uses. Monitoring is ongoing.

In 2004, the NMED Secretary of the Environment issued a Compliance Order on Consent for the MWL. In 2005, the Secretary issued a Final Order which required fate and transport modeling, a Corrective Measures Study and Implementation Report, installation of an evapotranspiration cover, and development of a Long Term Monitoring and Maintenance Plan (LTMMMP). The

cover was installed in 2009 to prevent erosion and animal intrusion. The LTMMMP was approved in 2014. In February 2016, the NMED Secretary issued a Final Order which affirmed that it is safest to leave the MWL waste in place, and granted status as Corrective Action Complete for a number of other sites. This Order reiterated that the LTMMMP requires completion of a comprehensive review and report every five years to evaluate the effectiveness of the current remedy. The Order required expansion of the scope of the five year review to also evaluate excavation, removal and disposal of the MWL. The first review is due in 2019. The Order also required that Sandia provide NMED and the interveners all records of wastes in the MWL. *Laurie King, 214-665-6771.*

CURRENT AND UPCOMING REGULATIONS

Definition of Solid Waste (DSW) Final Rule: The final rule went into effect on July 13, 2015. The rule revises the definition of solid waste (DSW) under the Resource Conservation and Recovery Act (RCRA) Subtitle C hazardous waste regulations. The DSW Rule: (1) replaces the 2008 exclusion for hazardous secondary materials being transferred to another person for reclamation (“transfer-based exclusion”) with the new DSW Verified Recycling Exclusion; (2) strengthens requirements for the 2008 exclusion for hazardous secondary materials being reclaimed under the control of the generator (“generator-controlled exclusion”); (3) revises the definition of legitimate recycling and applies it to all hazardous secondary material recycling; (4) makes revisions to variances and non-waste determinations, which are granted to facilities on a case-specific basis; and (5) codifies an exclusion for specific spent solvents being remanufactured back into commodity grade solvents (“remanufacturing exclusion”) and includes a process that allows persons to petition EPA to exclude other hazardous secondary materials from the hazardous waste regulations under the remanufacturing exclusion. EPA has concluded that the Revision of the Definition of Solid Waste may have Tribal implications. However, it will neither impose substantial direct compliance costs on Tribal governments, nor preempt tribal law. Currently, there are no facilities operating on land controlled by Tribal governments but if such facilities did locate in such areas, then this rule could have Tribal implications, to the extent that the rule is intended to address potential adverse impacts of the 2008 DSW final rule. *Kishor Fruitwala, 214-665-6669.*

Hazardous Waste Generator Improvements Proposed Rule: This proposed rule would make various changes to the hazardous waste generator regulatory program to improve its clarity and effectiveness. One improvement under consideration would consolidate all of the hazardous waste generator regulations, where appropriate, in Part 262 of Title 40 of the Code of Federal Regulations. Another possible improvement would require small and large quantity generators to include additional information on container labels to better communicate risks associated with its contents. In order to provide generators with greater flexibility in complying with the Resource Conservation and Recovery Act (RCRA) regulations, another improvement under consideration would allow generators to maintain their regulatory status even though, because of an episodic event, they moved into a higher regulatory status temporarily. This improvement would allow episodic generators to follow streamlined requirements that are fully protective of human health and the environment. There is a potential for Tribes to be impacted by the hazardous waste generator rule if they operate as a generator or have generators that operate on Tribal land. The proposed rule was published for comment in 80 FR 57918 on September 25, 2015. The original

comment period was extended to December 24, 2015. Final rule publication is anticipated in September 2016 with an effective date in December 2016. ***Kishor Fruitwala, 214-665-6669.***

Hazardous Waste (HW) Pharmaceuticals Proposed Rule: A small portion of pharmaceuticals are regulated as hazardous waste under the Resource Conservation and Recovery Act when discarded. Healthcare (and associated) facilities that generate hazardous waste pharmaceuticals have reported having difficulties complying with the manufacturing-oriented framework of the subtitle C hazardous waste regulations for a number of reasons. First, under the current hazardous waste regulatory scheme, healthcare workers, whose primary focus is to provide care for patients, are often responsible for the implementation of the regulations. Second, a healthcare facility can have thousands of items in its formulary, making it difficult to ascertain which ones are hazardous wastes when disposed. Third, some active pharmaceutical ingredients are listed as acute hazardous wastes, which are regulated even in small amounts. To facilitate compliance and to respond to these concerns, EPA is proposing to revise the regulations to improve management and disposal of hazardous waste pharmaceuticals. The revisions are also intended to clarify regulation of a major mechanism used by healthcare facilities for management of unused and/or expired pharmaceuticals, known as reverse distribution. In 2008, the Agency proposed to address pharmaceutical hazardous waste management issues by adding them to the Universal Waste rule. Based on the adverse comments received on the 2008 Universal Waste Pharmaceutical proposal, EPA is now considering proposing healthcare facility-specific regulations for the management of hazardous waste pharmaceuticals in lieu of finalizing the universal waste proposal. Healthcare facility-specific regulations will provide a regulatory scheme that is adapted to the unique issues that hospitals, pharmacies and other healthcare-related facilities face. There are no anticipated Tribal impacts associated with the HW Pharmaceuticals rule. The proposed rule was published for comment in 80 FR 58014 on September 25, 2015. The original comment period was extended to December 24, 2015. Final rule publication is anticipated in September 2016 with an effective date in December 2016. ***Kishor Fruitwala, 214-665-6669.***

GRANTS

The Office of Land and Emergency Management at EPA Headquarters annually awards a limited number of grants to Tribes under the statutory provisions of the Resource Conservation and Recovery Act, Subtitle C, Hazardous Waste Management Grant Program for Tribes. These grants are for the development and implementation of hazardous waste programs and for building capacity to address hazardous waste management in Indian country. The FY16 solicitation for proposals closed June 27. ***Cheryl Scott, 214-665-2179.***

Pesticides, Toxics & Underground Storage Tanks Branch

NEW AND UPCOMING REGULATIONS

New UST Regulations: The U.S. Environmental Protection Agency strengthen the federal underground storage tank (UST) requirements with the publication of the new final UST regulations on July 15, 2015, with an effective date of October 13, 2015. These new regulations provide additional protections for those UST facilities on Indian land. Deadlines for

requirements taking effect were October 13, 2015, for a few requirements, April 11, 2016, for others and finally October 13, 2018, for the remaining requirements.

The new regulations include: adding secondary containment requirements for new and replaced tanks and piping and adding under dispenser containment that is liquid tight on the sides and bottom; adding periodic operation and maintenance requirements for UST systems; removing deferrals for emergency generators tanks, airport hydrant systems and field- constructed tanks; adding new release detection technologies; and requiring operator training.

Several new UST facilities have been constructed on tribal lands, which had to meet the new secondary containment requirements, and one emergency generator UST was recently constructed in Oklahoma. Under the new construction requirements these new facilities will provide better protection from petroleum leaks into the environment, by catching and notifying of leaks prior to the leak reaching the environment.

In addition, the new regulations require training for three classes of operators at all UST facilities: Class A, B and C. The training must be completed prior to October 13, 2018. OUST has prepared compliance assistance publications and notified all tribes of their availability. OUST is also working on a certification test that must be taken to obtain a certification certificate. In Region 6 our two funded consortia are providing training to the tribes to enable them to pass the certification test. **Larry Thomas, 214-665-8344.**

Revisions to the Agricultural Worker Protection Standard (WPS): The Environmental Protection Agency has revised the 1992 Agricultural Worker Protection Standard regulation to increase protection from pesticide exposure for agricultural workers and their families. Some of the major changes include: annual mandatory training to inform farmworkers on the required protections; expanded training to reduce take-home exposure from pesticides on work clothing; and first-time ever minimum age requirement that children under 18 are prohibited from handling pesticides. The rule continues the exemption for farm owners and their immediate family with an expanded definition of immediate family. These changes afford farmworkers similar health protections already afforded to workers in other industries while taking into account the unique working environment of many agricultural jobs. **Greg Weiler, 214-665-7564.**

Proposed Revisions to the Certification and Training Rule for Applicators of Restricted Use Pesticides (RUPs): On August 5, 2015, the EPA issued a proposal to revise the Certification of Pesticide Applicators rule. EPA closed the comment period on January 22, 2016. EPA is proposing changes to the rule that would improve the competency of certified applicators of RUPs by: establishing new standards for certification, such as minimum age and examination standards for commercial applicators and more specific requirements for establishing competency of private applicators; establishing a uniform national certification period for private and commercial applicators and minimum requirements for recertification programs; and establishing new certification categories to address specific high-risk application methods. The proposed rule would also impact Tribes that operate certification programs. The impact on applicators and Tribes will vary based on the current Tribal requirements. **Greg Weiler, 214-665-7564.**

Lead-based Paint Programs: Amendment to Jurisdiction-Specific Certification and Accreditation Requirements and Renovator Refresher Training Requirements:

On February 17, 2016, EPA is finalized revisions to the Lead Renovation, Repair, and Painting (RRP) rule, and the Lead-based Paint (LBP) Activities rule. The revisions are intended to improve the day-to-day function of these programs by reducing burdens to industry and EPA, and by clarifying language for training providers, while retaining the protections provided by the original rules. First, EPA modified the requirement that the renovator refresher training for individuals have a hands-on component. Second, the Agency removed jurisdiction-specific certification and accreditation requirements under the LBP Activities program in States where EPA administers the program. Previously, this program required that training providers, firms and individuals seek certification in each jurisdiction (*e.g.*, Tribal, or a State) where the organization or person wanted to work. Third, EPA added clarifying language to the requirements for training providers under both the RRP and LBP Activities programs. *Mike Adams, 214-665-6711.*

PROGRAM IMPLEMENTATION

Tribal Underground Storage Tanks (UST) Inspections: During FY2016, EPA Region 6 will inspect 44 UST facilities operated on Tribal lands. Individual notification for these inspections is sent to the owner/operator and the Tribal environmental offices 30 days before the inspection. The operators of these facilities are provided compliance assistance during the inspections. The inspections during FY2016 will be at facilities on Tribal land at the following: Absentee Shawnee, Acoma, Alabama Coushatta, Apache Tribe of Oklahoma, Chickasaw, Chitimacha, Choctaw, Citizen Potawatomi, Coushatta, Iowa, Isleta, Laguna, Mescalero Apache, Muscogee (Creek), Picuris, San Ildefonso, Sandia, Santa Ana, Santa Clara, Santo Domingo, Seminole, and Taos. As of June 15, over 60% of these facilities have been inspected. *Greg Pashia 214-665-8439, Larry Thomas 214-665-8344, Heather Mann 817-291-9106.*

Federal Certification of Applicators of Restricted Use Pesticides (RUP) in Indian country: On February 6, 2014, EPA issued a federal certification plan that allows the use of RUPs in Indian country by trained, tested, and certified applicators. The plan also allows EPA to regulate the sale and distribution of RUPs in Indian country. The certification requirements for RUPs help assure that RUP applicators are competent to use these hazardous pesticides as safely as possible. To date, Region 6 has processed over 96 applications from applicators in New Mexico, Oklahoma, and Arkansas. Outreach is on-going and will continue in all states. *Greg Weiler, 214-665-7564.*

Pesticide Safety and Integrated Pest Management (IPM) in Schools in Indian

Country: Region 6 staff conducted a pesticide safety and IPM in schools consult and Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) compliance assistance visits with Ms. Margaret Chavez, Eight Northern Indian Pueblos Council (ENIPC) Office of Environmental Technical Assistance to the Pueblos of Santa Ana, San Felipe, and Isleta in New Mexico 18-22 April 2016. Region 6 provided information on the national strategy for implementing pesticide safety and IPM in schools to improve children's health, the federal requirements for pesticide applicator certification in Indian Country, pollinator stewardship and regulatory requirements regarding pesticide label instructions. Region 6 staff also addressed regulatory questions

associated with mosquito abatement efforts on Pueblos by County officials in the event of vector-borne disease risk (Zika/WNV). This activity supports R6 efforts to expand the use of pesticide safety and IPM programs in K-12 schools, Indian Country, and EJ communities.

Kenneth McPherson, 214-665-6754.

Pollinator Protection in Indian Country: Region 6 staff presented on “Pollinator Protection – EPA Update” at the 19th Annual Tribal Environmental Summit in Dallas, Texas on 15 April 2016. 20-Tribal environmental program staff from 16 Region 6 Tribes were provided information on proposed label language for pesticides highly toxic to bees, updates on the expedited registration review of neonicotinoids, managed pollinator protection plan status of partner states, pollinator stewardship, and other pollinator protection/stewardship resources (USDA-NRCS, USFWS, etc.). Region 6 staff also provided contact information for Mr. David Correll, Supervisor, Chickasaw Nation Nursery Program who is leading a successful pollinator stewardship and habitat restoration project for native plants and pollinators in Chickasaw Nation. This activity supports Region 6 efforts to promote the adoption of MP3’s and pollinator stewardship best management practices by partner States and Tribes ***Kenneth McPherson, 214-665-6754.***

TRIBAL OUTREACH AND EDUCATION

EPA Region 6 Hosts Tribal Solid and Hazardous Waste Workshops in Oklahoma and New Mexico: Workshops were held on June 8, 2016, in Albuquerque at the Indian Health Service (IHS) office and on June 16, 2016, at the Oklahoma Department of Environmental Quality (ODEQ) office. There were attendees representing Region 6 Tribes, ODEQ, New Mexico Environment Department (NMED), the New Mexico Recycling Coalition, Oklahoma State University and the Indian Health Service. In addition to updates on EPA’s Tribal Solid Waste Program, training was provided by the EPA Region 6 Tribal Solid Waste Coordinator on our Tribal Hazardous Waste grants in order to help Tribes gain a greater knowledge of the programs, and how to write a strong, competitive proposal. Also discussed was the Brownfields program and state funding opportunities, as well as our Tribal Sustainability Tool, EPA’s new Peer Matching Program and our Green Casinos initiative. ***Roger Hancock, 214-665-6688.***

GRANTS

Pesticides Grants: Cooperative agreements were awarded to two Tribal consortia, the Intertribal Environmental Council (ITEC) and the Eight Northern Indian Pueblos Council (ENIPC), to assist member Tribes in building capacity to establish and maintain pesticides programs. The goal of the Tribal pesticides program is to make Tribes aware of the benefits and dangers of pesticides and the requirements for their safe use, thereby safeguarding human health and the environment. ***Sheila Broadnax, 214-665-6426.***

Lead Paint Grants: The Cherokee Nation of Oklahoma was awarded a grant to conduct a Lead Based Paint Program. The focus of the program is maintaining the appropriate infrastructure to successfully administer and enforce the lead based paint program; provide training for lead

inspectors; conduct inspections of licensed contractors engaged in lead-based activities and taking appropriate enforcement when needed. *Mike Adams, 214-665-6711.*

Radon Grants: The Jicarilla Apache was awarded a grant to conduct a Tribal Radon Program. The program objective is to protect Tribal members from harmful exposures to radon gas by testing homes and Tribal offices, providing training and outreach to the community. The Pueblo of Pojoaque was awarded a grant to conduct a Tribal Radon Program. The program objective is to protect Tribal members from harmful exposures to radon gas by testing homes and Tribal offices, providing training and outreach to the community. *George Brozowski, 214-665-8541.*

Pollution Prevention Program Grants: The Otoe-Missouria Tribe of Oklahoma was awarded a Pollution Prevention Program Grant to implement pollution prevention technical assistance services and/or training for businesses and support projects that utilize pollution prevention techniques to reduce and/or eliminate pollution from air, water and/or land. The projects under the grant will provide training and technical assistance for seven Tribal businesses and three departments within the Tribal Government. Topics will include Pollution Prevention, Energy Use Awareness, Energy and Water Conservation and Chemical and Hazardous Material. *David Bond, 214-665-6431.*

Compliance Assurance and Enforcement Division

The Compliance Assurance and Enforcement Division is in the process and placing two wastewater inspectors that will be housed in the Albuquerque area. The Region anticipates having its first inspector available to conduct on-site inspections and assistance by September 2016. The individual will begin in late July but will be involved in EPA's inspector and health and safety training in July and August. The Region anticipates selection of a second inspector within the next 60 days. Initially, the inspector's emphasis will be placed upon wastewater treatment facilities but will likely expand to drinking water issues by next year.

Jerry Saunders, 214-665-6470

Superfund Division

TRIBAL CONSULTATION AND COORDINATION

VARIOUS REMOVAL/REMEDIAL ISSUES

Jackpile-Paguate Uranium Mine: Superfund staff met with the Laguna Pueblo Council on March 18, 2016, to discuss the April 6, Community Kick-Off Meeting. The purpose for meeting with the Council was to present the information EPA would be sharing with the community on April 6th, regarding the start of a Remedial Investigation/Feasibility Study (RI/FS). A general technical overview of the Superfund process was shared with the Council and the Community. Information Guide folders were provided to kick-off the RI/FS start and to encourage community participation. On May 24, 2016, the Laguna Pueblo hosted a site tour with the Department of Justice, EPA Region 6, and British Petroleum (BP), formerly known as Atlantic Richfield Company and former operators of the Jackpile-Paguate Uranium Mine Site. The purpose of the site tour was to allow BP and its technical representatives to see the site since the time of mine closure. Legal representatives from all four parties met on May 23, and May 25, 2016 to discuss a path forward from the current enforcement activity and status as it affects the start of the RI/FS and the Superfund process. *Petra Sanchez, 214-665-6686*

Quapaw Tribe: The Quapaw Tribe Environmental Office is conducting a pilot project using soil amendments which have been applied to impacted soils to reduce the bioavailability of the metals of concern. The application of technical performance measures and long-term monitoring will determine whether the amendments are functioning as designed. The Tribe has performed the remedial action at another portion of tribal lands known as Beaver Creek North (CP060) and is currently performing the remedial action at Distal 13. *Rafael Casanova 214-665-7437*

Quapaw Tribe: An amendment to the cooperative agreement with the Quapaw Tribe was awarded in May 2016, in the amount of \$3,700,000. This award is to fund the Tribe to remove contamination from the Restricted Land Area of Tar Creek, Distal 13. *Kathy Gibson 214-665-7196*

Tar Creek: On June 28 and 29, the EPA will meet with all stakeholders to discuss issues related to OU5 and OU4, respectively. The EPA continues to coordinate with the tribal groups interested in the Tar Creek Site through periodic meetings and conference calls that provide updates and discussion opportunities related to progress and schedule for remedial action (OU2 and OU4) and Remedial Investigation (OU5). The next scheduled stakeholders meeting is scheduled for July 2016. EPA and other parties are planning a community session to present information of work being performed throughout the Tri State area. The tentative timeframe for this session is August. *Rafael Casanova 214-665-7437*

Wilcox Oil Company: Katrina Higgins-Coltrain (Remedial Project Manager) and Todd Downham (Oklahoma Department of Environmental Quality Project Manager) continue to coordinate with the tribal groups interested in the Wilcox Site. The ITEC, Sac and Fox Nation, Muscogee (Creek) Nation, Cherokee Nation, BIA, and IHS, are interested in the site and participate in the site meetings and visits. Update meetings and discussion related to the

Remedial Investigation/Feasibility Study process, current status and progress, and schedule of future activities were held in April and March 2015. A meeting was held August 26, 2015, to discuss and identify areas of cultural and historical significance that could be impacted by site related activities. On September 24, 2015, a follow-up site visit with the Muscogee (Creek) Nation cultural and historical preservation departments and Sac and Fox Nation was conducted. In addition, interested persons visited the site during field work conducted December 2015. Currently EPA is working to review field data from September and December 2015 and develop site-specific sampling. At this time, the documents are tentatively scheduled to be shared with the team in June/July 2016. Also, the July 2016 timeframe is tentative for the next open house with the community. ***Katrina Higgins-Coltrain 214-665-8143***

NM Abandoned Uranium Mines - Tronox Settlement: Tronox was created in 2005 as a spinout of Kerr McGee and was saddled with massive environmental and legal liabilities. Tronox filed bankruptcy and filed a fraudulent conveyance suit against Kerr McGee and its successor, Anadarko. The U.S. Department of Justice finalized a \$5.2 billion settlement with Kerr McGee and Anadarko on January 23, 2015. EPA received \$985 million of the settlement to address legacy human health and environmental impacts at uranium mine sites in NM and on the Navajo Nation. The \$985 million will be used to fund the cleanup of approximately 50 abandoned uranium mines in NM and on the Navajo Nation. Of the 50 mines, 22 mines in NM were identified in the Tronox Settlement. EPA Regions 6 and 9, along with the Navajo Nation EPA and New Mexico Environmental Department (NMED) and New Mexico Energy, Minerals and Natural Resources Department (NMEMNRD) have established quarterly meetings to identify project activities and goals at the abandoned uranium mines. Investigations into the impacts on groundwater from legacy mining and milling with the potential risk to residents using groundwater as their domestic water supply continue as EPA Region 6 develops a conceptual site model tentatively scheduled to be released in FY18. Drilling of additional monitoring wells to assess water quality in the alluvial and bedrock aquifers began in July 2015 and was completed in February 2016. A non-time critical removal assessment on the Tronox NAUM East Geographic Subarea and associated areas in Ambrosia Lake began in July 2015 and was completed in completed in March 2016. The West Geographic Subarea is currently being assessed. The data is being utilized to prepare an EE/CA Report for the site. Meetings were held the week of June 13th with Region 6, Region 9, Navajo Nation, NMED, and NMEMNRD to discuss priorities for FY 2017. ***Chris Villarreal 214-665-6758, Kevin Shade 214-665-2708, Jon Rinehart 214-665-6789, Warren Zehner 281-983-2229***

Grants Mining District – Draft Five-Year Plan: On October 9, 2015, Region 6 released the draft 2015-2020 Grants Mining District Five-Year Plan to the public, tribal, state and federal agencies for review and input. An offer of consultation was also extended to the Pueblo of Acoma and the Pueblo of Laguna on the draft plan. The draft plan can be downloaded from the Grants Mining District webpage (<http://www2.epa.gov/grants-mining-district>). Input was requested on the draft plan by November 13, 2015. The final Five-Year Plan is expected to be released in the summer of 2016. ***Kevin Shade 214-665-2708, LaDonna Turner 214-665-6666***

BROWNFIELDS

128A Tribal Response Program Updates:

- Region 6 received FY16 Funding Requests from four FY16 128a Tribal Response Programs. All four requests were from existing 128a Tribal Response Programs: The Inter-Tribal Environmental Council (ITEC), Eight Northern Indian Pueblo Councils (ENIPC), Absentee Shawnee Tribe and the Kickapoo Tribe of Oklahoma. The national budget for 128a funding remained at \$47.7M this year.
- The Region 6 Brownfields Program is partnering with the Region 6 GAP program to identify areas to better coordinate to promote grant efficiencies and effectiveness.
- The Tribal Lands and Environment Forum will be held in Uncasville, CT August 15-18.
- The EPA Brownfields Program is hosting a free Grant Writing Workshop October 4-6 in Addison, TX for applicants interested in Brownfields Assessment and Cleanup grants.
- *Amber Howard 214-665-3172*

Inter-Tribal Environmental Council – Tribal Response Program

The Inter-Tribal Environmental Council (ITEC) administers a 128a Tribal Response Program, building capacity since 2000. ITEC provides outreach to its 41 member tribes regarding what the Brownfields Program is, how it can benefit tribal lands and the services ITEC can provide (such as training, inventories and site assessments). ITEC's Brownfields Program disseminates information by visiting with tribes in person, hosting in the Tribal Summit, and utilizing its website and email news. ITEC's website provides information about Brownfields, including services offered and an inventory of brownfields sites that have been addressed with its program.

ITEC recently began the process of rewriting, amending, editing, and ultimately developing a new set of environmental statutes and regulations to assist with implementation of its Brownfields Program. ITEC is considering addressing vapor encroachment through its Brownfields Program. ITEC is also providing training such as ASTM to member tribes.

Recent assessment and technical assistance provided by ITEC include:

- The Delaware Nation Drum site has been referred to the EPA Removal program for a limited cleanup action. While conducting Phase I Environmental Assessment activities, ITEC encountered a room of unlabeled drums, many of which were unlabeled and appeared to be leaking. ITEC contacted EPA for assistance. The removal activities are currently underway. *Amber Howard 214-665-3172*

Eight Northern Indian Pueblo Council – Tribal Response Program

The Eight Northern Indian Pueblo Council (ENIPC) administers a 128a Tribal Response Program, building capacity since 2010. ENIPC is working to enhance and implement the Brownfields 128(a) program by: 1) providing outreach directly related to increasing awareness of Brownfields to communities and its response to help to develop the skills of program staff and the 22 Pueblo/Tribes, and 2) providing training to staff and Tribal environmental professionals about the USEPA State and Tribal Response Program and its elements. ENIPC continues to focus on outreach/training to the communities, its partnership with the New Mexico Environment Department State Response Program, as well as enhancing the structure of the 128(a) program - the survey and inventory, and the public record.

Recent assessment and technical assistance provided by ENIPC include:

- Phase I ESA on private property (agriculture land) for the Pojoaque Pueblo that the Pueblo will acquire for conversion of acquired property into tribal trust through Bureau of Indian Affairs (BIA).
- Phase I ESA on abandoned gravel mine on Cochiti Pueblo.
- Acoma Pueblo – McCarty School burnt building materials properly collected and disposed using GAP funding. Acoma was able to move forward with securing GAP funding to address McCarty School burnt building materials after ENIPC's Phase I ESA.
- Pueblo of Isleta: After visiting Isleta shooting range in March 2016, ENIPC followed up with Pueblo of Isleta to screen soils in shooting range to confirm presence and concentration levels of lead in shooting range. The Pueblo of Isleta will follow with spot cleanup of hot spots identified through XRF screening by ENIPC. The shooting range is used by hunters of Pueblo of Isleta and is an important tribal resource for Pueblo of Isleta.
- Picuris Pueblo – Gym roof was repaired by Picuris after securing USDA funding of \$70,000. This included molded batting material identified in Phase I ESA provided by ENIPC. The gym is now and operational.

Amber Howard 214-665-3172

Absentee Shawnee Tribe – Tribal Response Program

- The Absentee Shawnee Tribe (AST) relaunched its 128a Tribal Response Program in 2013. AST continues to promote sustainable and livable rural communities by establishing, maintaining and enhancing their Tribal Brownfield Response Program to protect disproportionately impacted low-income, minority, and Tribal communities. The Tribe continues to use the Tribal Response Program to preserve land and prevent land contamination by preparing for and responding to accidental or intentional releases of contaminants; ensuring clean up and restoration of polluted sites for reuse; reducing waste generation; maintaining an inventory of brownfields sites and reviewing the Tribal Solid Waste Code for necessary updates to ensure proper management of waste and petroleum products. The AST Tribal Response Program has partnered with the Oklahoma Department of Environmental Quality (ODEQ) and the Inter-Tribal Environmental Council's Brownfields Program to secure Phase II site assessments and Certificates of Completion to further the reuse of Brownfields properties. ***Amber Howard 214-665-3172***

Recent assessment and technical assistance provided by AST include:

- Housing Authority property - The AST is currently working with the Absentee Shawnee Housing Authority (ASHA) on a U.S. Department of Housing and Urban Development (HUD) Housing project. AST completed the NEPA Environmental Assessment, Finding of No Significant Impact and Request for Release of Funds documents. The AST is assisting the ASHA with the removal of 2 underground storage tanks and the capping a water well on the proposed housing addition site. The ASHA plans for the construction of 25 low income housing units located on the proposed site. ***Amber Howard 214-665-3172***

Kickapoo Tribe of Oklahoma – Tribal Response Program

The Kickapoo Tribe of Oklahoma (KTO) began developing its 128a Tribal Response Program in October 2015. KTO strives to provide effective environmental programs that promote protection of the environment and human health with respect to surface water, drinking water, air, solid waste, underground storage tanks, hazardous waste, emergency response, environmental justice, pesticides and environmental planning projects. With the addition of a 128(a) program, KTO will complement existing services by developing a site inventory on tribal lands, strengthening the tribe's capacity to respond to contaminated sites, fostering public participation through outreach and education and developing cleanup standards. Additionally, KTO is partnering with both 128a and GAP to pilot a joint workplan to accomplish common goals of both programs. *Amber Howard 214-665-3172*

TARGETED BROWNFIELDS ASSESSMENT ACTIVITIES

ENIPC: ENIPC requested TBA assistance from EPA on Valmora tract (70-acres) that ENIPC owns. ENIPC wants to determine if former 11 structures built as a housing sub-division are salvageable for future reuse for office space, and sustainable agriculture activities. If structures are not salvageable, then ENIPC wants to evaluate costs to demolition structures – including abatement costs for asbestos, asbestos containing materials and lead-based paint. EPA TBA Program completed Phase I ESA on Valmora tract (70-acres) in early June 2016. A Phase II ESA to confirm presence of asbestos, asbestos containing materials and lead-based paint in administration building on Valmora tract will be completed by the end of June 2016 by the EPA TBA Program. During a site tour with ENIPC and NMED, EPA suggested inventorying salvageable contraction and architectural materials out of the 11 buildings on Valmora tract using Deconstruction Tool designed under Land Revitalization. Materials inside of buildings that are potentially salvageable are vigas, brick, Saltillo floor tile, decorative Mexican tile. *Karen Peycke 214-665-7273*

Laguna Pueblo: No new information regarding Laguna Pueblo “school bus barn” site in third quarter of FY 2016. *Karen Peycke 214-665-7273*

Zuni Pueblo: NMED completed asbestos abatement at closed Malco gas station at request and on behalf of Zuni Pueblo in first quarter of FY 2016. Zuni Pueblo plans to demolish structures on closed Malco gas station. *Karen Peycke 214-665-7273*

Santa Clara Pueblo: Santa Clara's environmental contractor undertook asbestos abatement in the Judicial Building but discovered additional asbestos within walls not originally planned and did not have sufficient budget/funding to undertake. After meeting with EPA in March 2016, this issue was raised. EPA approached NMED about undertaking an asbestos survey and abatement plan on behalf of Santa Clara. Santa Clara also approached BIA for additional funding to undertake abatement activities identified by NMED's asbestos survey and abatement plan in March 2016. Santa Clara will send in request for asbestos survey and abatement plan to NMED in June 2016.

EPA Superfund Site Assessment issued a no further action recommendation on the Bridges Radiator Shop in Espanola, NM in May 2016. EPA TBA Program offered to assist Santa Clara with environmental site assessment assistance on Bridges Radiator Shop. Additionally, EPA TBA Program will coordinate environmental site assessment activities with NMED if Santa Clara requests assistance from both EPA and NMED. Santa Clara Pueblo will evaluate what the reuse options are for Bridges Radiator Shop.

Karen Peycke 214-665-7273

Taos Pueblo: ENIPC completed the Analysis for Brownfields Cleanup Alternatives for Taos Community and Health Services Building and former doctor office/residence burnt structure. EPA TBA Program completed cleanup plan for this site that included an option (estimated costs) to address septic tank fields. NMED will assist with cleanup on behalf of Taos Pueblo through NMED Brownfields RLF upon receipt of ABCA and cleanup plan. ***Karen Peycke 214-665-7273***

Santa Domingo Pueblo: No new information about CC Housing Site in first two quarters of FY 2016. ***Karen Peycke 214-665-7273***

Cochiti Pueblo: Region 6 nominated Cochiti Pueblo as a “Making a Difference to Communities” community for Green Infrastructure in FY 2015.

Cochiti Pueblo started working with EPA, NMED, BIA and Pena Blanca Water Authority to address the potential impacts from abandoned Cochiti Gravel Mine on area including drinking water well located in Pena Blanca but adjacent to mine in August 2013. EPA Brownfields Program coordinated with Emergency Response Branch, Tribal Office Site Assessment Section within EPA Region 6 and outside of EPA with NMED’s Drinking Water Bureau and NMED’s Brownfields Program to identify resources available to assist Cochiti Pueblo with identifying and confirming impacts from abandoned mine operations. The EPA Targeted Brownfields Assessment Program set aside funding to undertake a Phase I and II ESA in FY 2014. NMED’s Drinking Water Bureau is working with Pena Blanca Water Authority to develop a second source for drinking water well in area and noted that Pena Blanca drinking water well will be sampled in 2014. Note, Cochiti Pueblo governor office is a one year term, the new Governor entered office in January 2014 and a new Governor will enter office in January 2015. EPA TBA Program received requests for Phase I and II ESA at the abandoned gravel mine in February 2014. ENIPC finalized Phase I ESA on Cochiti’s abandoned gravel. EPA TBA Program completed soil gas survey of the mine staging area and sampled the single source drinking water well operated by Pena Blanca Water Board – adjacent to staging area of abandoned gravel mine. In September 2015, the Cochiti Pueblo Council and Governor were briefed about Targeted Brownfields Assessment assistance completed (soil gas survey and sample of drinking water well) and follow-up Phase II ESA planned for the Cochiti’s abandoned gravel mine planned. Note – the drinking water well sample results did not indicate contamination of water from heavy metals or petroleum products.

Using the completed soil gas survey results, EPA briefed the Cochiti Pueblo staff and consultant; and the Pena Blanca Water Board on survey results of the Cochiti’s abandoned gravel mine staging area. At request of Cochiti Pueblo and Pena Blanca Water Board, EPA provided sample

approach for next Phase II ESA to sample surface and sub-surface soils of the mine staging area for comments/input from Cochiti Pueblo and Pena Blanca Water Board. Additionally, NMED asked to split sub-surface soil sampling with EPA to collect data at a difference depth. EPA will also extend surface and sub-surface soil sampling to the perimeter of the mine in the Phase II ESA sampling plan. EPA incorporated Cochiti Pueblo, Pena Blanca Water Board and NMED comments to sample approach and will complete Phase II ESA sampling plan by November 2015.

NMED has offered to sample private water wells located on residences that are adjacent to Cochiti's abandoned gravel mine. Additionally, NMED has offered to undertake quarterly sampling of single source drinking water well at the request of the Pena Blanca Water Board – as follow-up to EPA's TBA sampling of well.

EPA coordinated with Cochiti Pueblo, Pena Blanca Drinking Water Board, Rural Waters (non-profit) and NMED to design a sampling plan to confirm presence of solvents, hydrocarbons and heavy metals in surface soils, below surface ground soils (6 feet interval NMED will sample and 12 feet interval EPA TBA contractor will sample) for a follow-up Phase II ESA. The field work for the follow-up Phase II ESA started the week of March 14, 2016. The final Phase II ESA report will be completed in June 2016. Next steps will be to go over follow-up Phase II ESA results with Cochiti Pueblo, Pena Blanca Water Board through a conference call. Additionally, Region 6 will write a scope of work for Land Revitalization contract to provide visioning/planning assistance on abandoned gravel mine. ***Karen Peycke 214-665-7273***

Pueblo of Isleta: After visiting Isleta shooting range in March 2016, ENIPC followed up with Pueblo of Isleta to screen soils in shooting range to confirm presence and concentration levels of lead in shooting range. The Pueblo of Isleta will follow with spot cleanup of hot spots identified through XRF screening by ENIPC. The shooting range is used by hunters of Pueblo of Isleta and is an important tribal resource for Pueblo of Isleta. ***Karen Peycke 214-665-7273***

Cochiti Pueblo: NMED has offered to sample private water wells located on residences that are adjacent to Cochiti's abandoned gravel mine. Additionally, NMED has offered to undertake quarterly sampling of single source drinking water well at the request of the Pena Blanca Water Board – as follow-up to EPA's TBA sampling of well.

EPA coordinated with Cochiti Pueblo, Pena Blanca Drinking Water Board, Rural Waters (non-profit) and NMED to design sampling plan to confirm presence of solvents, hydrocarbons and heavy metals in surface soils, below surface ground soils for a follow-up Phase II ESA. The field work for the follow-up Phase II ESA started the week of March 14, 2016. The final Phase II ESA report will be completed in June 2016. Next steps will be to go over follow-up Phase II ESA results with Cochiti Pueblo and Pena Blanca Water Board through a conference call. Additionally, Region 6 is planning to provide visioning/planning assistance on abandoned gravel mine. ***Karen Peycke 214-665-7273***

LAND REVITALIZATION

Choctaw Nations Promise Zone: Choctaw Nation requested Brownfields training for its staff in place of hosting a Brownfields 101 webinar for communities in FY 2016. *Karen Peycke 214-665-7273*

TRIBAL TRAINING

XRF Screening and Sampling Training: NMED provided examples of XRF screening and sampling plans to evaluate lead concentrations from expelled bullets on shooting ranges to ENIPC in May 2016. Additionally, NMED offered to provide field training to ENIPC when ENIPC deploys XRF on Isleta's shooting range. *Karen Peycke 214-665-7273*

Potential Responsible Parties (PRP) Training: EPA Superfund Enforcement Section is coordinating with ITEC to conduct PRP Training in August in Oklahoma. Specific date and location is to be determined. *Lydia Johnson 214-665-8419*

Office of Environmental Justice, Tribal and International Affairs

TRIBAL FUNDING

Region 6 General Assistance Program (GAP): OEJTIA has been allocated \$7,508,000 in FY 16 Indian Environmental General Assistance Program (GAP) funding. This year OEJTIA will award GAP grants to sixty-three tribal partners, including six Performance Partnership Grants (PPGs). Award notices have begun to be sent out; please contact your GAP project officer if you have questions. **Randy Gee, 214-665-8355.**

EPA-TRIBAL ENVIRONMENTAL PLANS

ETEP Update: OEJTIA finalized completion of twenty-two EPA-Tribal Environmental Plans (ETEPs) with tribal partners in FY 15. As outlined in the May 15, 2013 GAP guidance, ETEPs are planning documents that reflect intermediate and long-term goals for developing, establishing, and implementing tribal environmental protection programs. OEJTIA will finalize completion of seventeen ETEPs with tribal partners in FY 16. **Randy Gee, 214-665-8355.**

TRIBAL CONSULTATION AND COORDINATION

EPA Policy on Consultation and Coordination with Indian Tribes: Opportunities for Consultation: The following tribal consultation opportunities are ongoing:

- *RCRA Public Participation Manual-End Date (7/15/2016)*
- *Draft EJ 2020 Action Agenda Environmental Justice Strategic Plan 2016-2020-End Date (7/18/2016, more information below)*
- *Consultation and Coordination on the E-Enterprise for the Environment Draft Governance Charter-End Date (7/29/2016)*
- *EPA Region 6, Issuance of a Synthetic Minor New Source Review Permit for New Mexico Gas Company Redonda Station-End Date (7/15/2016)*

These opportunities can be viewed at www.epa.gov/tribal. **Randy Gee, 214-665-8355**

ENVIRONMENTAL JUSTICE UPDATE

Environmental Justice Summit: EPA Region 6 is hosting a two-day Environmental Justice Summit on August 9-10, 2016, in Dallas. The purpose of the Summit is to:

- *Discuss progress on the development and implementation of EPA Region 6 Environmental Justice Collaborative Action Plans for Arkansas, Louisiana, New Mexico, Oklahoma and Texas*
- *Highlight examples of successful multi-stakeholder collaborations to address environmental justice issues in communities across Region 6*
- *Highlight recent federal government initiatives that can support local community efforts to address environmental justice issues*

Please contact Israel Anderson for registration and hotel information. ***Israel Anderson, 214-665-3138, Mark Allen, 214-665-2719***

EJ 2020 Action Agenda: EJ 2020 Action Agenda (EJ 2020) is EPA's five year strategy to advance environmental justice through EPA's programs, policies, and activities, and support the cross-agency strategy on making a visible difference in environmentally overburdened, underserved, and economically distressed communities, including tribal and other indigenous communities.

Tribal consultation on EJ 2020 started on June 2 and continues through July 18, 2016. EPA extended the public comment period on EJ 2020 for 21 days and will now be accepting comments until July 28, 2016. The public comment period was originally scheduled for May 23 to July 7, 2016. ***Randy Gee, 214-665-8355***